

Please note: This text is from the fourth edition of *Federal Historic Preservation Laws*, published in 2006 by the National Center for Cultural Resources, National Park Service, Department of the Interior. This edition contains 24 Federal laws and portions of laws that pertain to the preservation of the Nation's cultural heritage.

The citations in this book are no longer current. We have retained this online edition for its historic value, and for the plain-language context that it provides about these laws.

For up-to-date citations and links to the current text of Federal historic preservation laws, please consult our webpage about **Federal Historic Preservation Laws, Regulations, and Orders:**
<https://www.nps.gov/subjects/historicpreservation/laws.htm>.

For information about **Title 54 of the United States Code**, please visit:
<https://www.nps.gov/subjects/historicpreservation/laws-intro.htm>.

Department of Transportation Act

DECLARATION OF PURPOSE AND SECTION 4(F), AS AMENDED

This Act became law on October 15, 1966 (Public Law 89-670), 49 U.S.C. 303 (formerly 49 U.S.C. 1651(b)(2) and 49 U.S.C. 1653f). Public Law 90-495 (August 23, 1968) amended section 4(f) to its most commonly known form which is presented here. Public Law 97-449 (January 12, 1983) re-codified the Act from 49 U.S.C. 1651 to 49 U.S.C. 303. Congress has amended this Act three other times. The description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act as amended) rather than to the "subchapter" or the "title" of the Code.

49 U.S.C. 303,
Policy on lands,
wildlife and water-
fowl refuges, and
historic sites.

Section 4(f)

It is hereby declared to be the policy of the United States Government that special effort should be made to preserve the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.

49 U.S.C. 303(b)

The Secretary of Transportation shall cooperate and consult with the Secretaries of the Interior, Housing and Urban Development, and Agriculture, and with the States, in developing transportation plans and programs that include measures to maintain or enhance the natural beauty of lands crossed by transportation activities or facilities.

49 U.S.C. 303(c)

The Secretary may approve a transportation program or project (other than any project for a park road or parkway under section 204 of title 23) [of the United States Code, "Federal Lands Highways Program"] requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—

(1) there is no prudent and feasible alternative to using that land; and

(2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

National Environmental Policy Act

PORTIONS, AS AMENDED

This Act became law on January 1, 1970 (Public Law 91-190), 42 U.S.C. 4321 and 4331-4335 and has been amended once. The description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code.

42 U.S.C. 4321,
Congressional declaration of purpose

Section 2

The purposes of this Act are: To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality.

42 U.S.C. 4331,
Congressional declaration of national environmental policy

Section 101

(a) The Congress, recognizing the profound impact of man's activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man, declares that it is the continuing policy of the Federal Government, in cooperation with State and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which man and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of Americans.

(b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may—

National Environmental Policy Act

Preservation of historic, cultural, and natural heritage

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all Americans safe, healthful, productive, and esthetically and culturally pleasing surroundings;

(3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity and variety of individual choice;

(5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and

(6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation of the environment.

42 U.S.C. 4332,
Cooperation of agencies, reports, availability of information, recommendations, international and national coordination of efforts

Section 102

The Congress authorizes and directs that, to the fullest extent possible:

(1) the policies, regulations, and public laws of the United States shall be interpreted and administered in accordance with the policies set forth in this Act, and

(2) all agencies of the Federal government shall—

(A) utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment;

National Environmental Policy Act

(B) identify and develop methods and procedures, in consultation with the Council on Environmental Quality established by Section 202 of this Act [42 U.S.C. 4341-4347], which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations;

Environmental impact statements, etc.

(C) include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(i) the environmental impact of the proposed action,

(ii) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(iii) alternatives to the proposed action,

(iv) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

Consultation with agencies having special expertise

Prior to making any detailed statement, the responsible Federal official shall consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State, and local agencies, which are authorized to develop and enforce environmental standards, shall be made available to the President, the Council on Environmental Quality and to the public as provided by section 552 of title 5 [of the United States Code], and shall accompany the proposal through the existing agency review processes;

(Remainder of Section 102(D) omitted)

(E) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

National Environmental Policy Act

(F) recognize the worldwide and long-range character of environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment;

(G) makes available to States, counties, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment;

(H) initiate and utilize ecological information in the planning and development of resource-oriented projects;

(Remainder of paragraph omitted)

Section 103

(42 U.S.C. 4333, Conformity of administrative procedures to national environmental policy, omitted)

Section 104

(42 U.S.C. 4334, Other statutory obligations of agencies, omitted)

42 U.S.C. 4335,
Efforts supplemental to
existing authorizations

Section 105

The policies and goals set forth in this Act are supplementary to those set forth in existing authorizations of Federal agencies.

(Remainder of Act omitted)

National Marine Sanctuaries Act

PORTIONS, AS AMENDED

This Act became law on October 23, 1972 (Public Law 92-532, 16 U.S.C. 1431-1445) and has been amended 15 times. This description of the Act, as amended, follows the language of the United States Code except that (in common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code.

16 U.S.C. 1431,
Findings, purposes,
and policies; estab-
lishment of system

16 U.S.C. 1431(a),
Congressional
findings

Section 301

(a) The Congress finds that—

(1) this Nation historically has recognized the importance of protecting special areas of its public domain, but these efforts have been directed almost exclusively to land areas above the high-water mark;

(2) certain areas of the marine environment possess conservation, recreational, ecological, historical, scientific, educational, cultural, archeological, or esthetic qualities which give them special national, and in some cases international, significance;

(3) while the need to control the effects of particular activities has led to enactment of resource-specific legislation, these laws cannot in all cases provide a coordinated and comprehensive approach to the conservation and management of special areas of the marine environment; and

(4) a Federal program which establishes areas of the marine environment which have special conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities as national marine sanctuaries managed as the National Marine Sanctuary System will—

(A) improve the conservation, understanding, management, and wise and sustainable use of marine resources;

(B) enhance public awareness, understanding, and appreciation of the marine environment; and

(C) maintain for future generations the habitat, and ecological services, of the natural assemblage of living resources that inhabit these areas.

National Marine Sanctuaries Act

16 U.S.C. 1431(b),
Purposes and policies

(b) The purposes and policies of this Act are—

- (1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance and to manage these areas as the National Marine Sanctuary System;
- (2) to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities;
- (3) to maintain the natural biological communities in the national marine sanctuaries, and to protect, and, where appropriate, restore and enhance natural habitats, populations, and ecological processes;
- (4) to enhance public awareness, understanding, appreciation, and wise and sustainable use of the marine environment, and the natural, historical, cultural, and archeological resources of the National Marine Sanctuary System;
- (5) to support, promote, and coordinate scientific research on, and long-term monitoring of, the resources of these marine areas;
- (6) to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;
- (7) to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;
- (8) to create models of, and incentives for, ways to conserve and manage these areas, including the application of innovative management techniques; and
- (9) to cooperate with global programs encouraging conservation of marine resources.

16 U.S.C. 1431(c),
Establishment of
system

(c) There is established the National Marine Sanctuary System, which shall consist of national marine sanctuaries designated by the Secretary in accordance with this Act.

National Marine Sanctuaries Act

16 U.S.C. 1432,
Definitions

Section 302

As used in this Act, the term—

(1) “**draft management plan**” means the plan described in section 304(a)(1)(C)(v) of this Act [16 U.S.C. 1434(a)(1)(C)(v)];

(2) “**Magnuson-Stevens Act**” means the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.);

(3) “**marine environment**” means those areas of coastal and ocean waters, the Great Lakes and their connecting waters, and submerged lands over which the United States exercises jurisdiction, including the exclusive economic zone, consistent with international law;

(4) “**Secretary**” means the Secretary of Commerce;

(5) “**State**” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States;

(6) “**damage**” includes—

(A) compensation for—

(i)(I) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource; and

(II) the value of the lost use of a sanctuary resource pending its restoration or replacement or the acquisition of an equivalent sanctuary resource; or

(ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired;

(B) the cost of damage assessments under section 303(b)(2) of this Act [16 U.S.C. 1433(b)(2)];

(C) the reasonable cost of monitoring appropriate to [sic] the injured, restored, or replaced resources;

(D) the cost of curation and conservation of archeological, historical, and cultural sanctuary resources; and

National Marine Sanctuaries Act

(E) the cost of enforcement actions undertaken by the Secretary in response to the destruction or loss of, or injury to, a sanctuary resource;

(7) “**response costs**” means the costs of actions taken or authorized by the Secretary to minimize destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risks of such destruction, loss, or injury, including costs related to seizure, forfeiture, storage, or disposal arising from liability under section 303 of this Act [16 U.S.C. 1443];

(8) “**sanctuary resource**” means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, educational, cultural, archeological, scientific, or aesthetic value of the sanctuary; and

(9) “**exclusive economic zone**” means the exclusive economic zone as defined in the Magnuson-Stevens Act; and

(10) “**System**” means the National Marine Sanctuary System established by section 301 of this Act [16 U.S.C. 1431].

16 U.S.C. 1433,
Sanctuary designa-
tion standards

16 U.S.C. 1433(a),
Standards

Section 303

(a) The Secretary may designate any discrete area of the marine environment as a national marine sanctuary and promulgate regulations implementing the designation if the Secretary determines that—

(1) the designation will fulfill the purposes and policies of this Act;

(2) the area is of special national significance due to—

(A) its conservation, recreational, ecological, historical, scientific, cultural, archaeological, educational, or esthetic qualities;

(B) the communities of living marine resources it harbors; or

(C) its resource or human-use values;

National Marine Sanctuaries Act

(3) existing State and Federal authorities are inadequate or should be supplemented to ensure coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education;

(4) designation of the area as a national marine sanctuary will facilitate the objectives stated in paragraph (3); and

(5) the area is of a size and nature that will permit comprehensive and coordinated conservation and management.

16 U.S.C. 1433(b),
Factors and consultations required in making determinations and findings

(b)(1) For purposes of determining if an area of the marine environment meets the standards set forth in subsection (a) of this section, the Secretary shall consider—

(A) the area's natural resource and ecological qualities, including its contribution to biological productivity, maintenance of ecosystem structure, maintenance of ecologically or commercially important or threatened species or species assemblages, maintenance of critical habitat of endangered species, and the biogeographic representation of the site;

(B) the area's historical, cultural, archaeological, or paleontological significance;

(C) the present and potential uses of the area that depend on maintenance of the area's resources, including commercial and recreational fishing, subsistence uses, other commercial and recreational activities, and research and education;

(D) the present and potential activities that may adversely affect the factors identified in subparagraphs (A), (B), and (C);

(E) the existing State and Federal regulatory and management authorities applicable to the area and the adequacy of those authorities to fulfill the purposes and policies of this Act;

(F) the manageability of the area, including such factors as its size, its ability to be identified as a discrete ecological unit with definable boundaries, its accessibility, and its suitability for monitoring and enforcement activities;

National Marine Sanctuaries Act

(G) the public benefits to be derived from sanctuary status, with emphasis on the benefits of long-term protection of nationally significant resources, vital habitats, and resources which generate tourism;

(H) the negative impacts produced by management restrictions on income-generating activities such as living and nonliving resources development;

(I) the socioeconomic effects of sanctuary designation;

(J) the area's scientific value and value for monitoring the resources and natural processes that occur there;

(K) the feasibility, where appropriate, of employing innovative management approaches to protect sanctuary resources or to manage compatible uses; and

(L) the value of the area as an addition to the System.

Consultation

(2) In making determinations and findings, the Secretary shall consult with—

(A) the Committee on Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(B) the Secretaries of State, Defense, Transportation, and the Interior, the Administrator, and the heads of other interested Federal agencies;

(C) the responsible officials or relevant agency heads of the appropriate State and local government entities, including coastal zone management agencies, that will or are likely to be affected by the establishment of the area as a national marine sanctuary;

(D) the appropriate officials of any Regional Fishery Management Council established by section 302 of the Magnuson-Stevens Act (16 U.S.C. 1852) that may be affected by the proposed designation; and

(E) other interested persons.

National Marine Sanctuaries Act

Section 304

(Section 304(a)(1), Notice, omitted)

16 U.S.C. 1434,
Procedures for
designation and
implementation

16 U.S.C. 1434(a),
Sanctuary proposal

16 U.S.C. 1434(a)(2),
Sanctuary designa-
tion documents

(a)(2) The Secretary shall prepare and make available to the public sanctuary designation documents on the proposal that include the following:

(A) A draft environmental impact statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) A resource assessment that documents—

(i) present and potential uses of the area, including commercial and recreational fishing, research and education, minerals and energy development, subsistence uses, and other commercial, governmental, or recreational uses;

(ii) after consultation with the Secretary of the Interior, any commercial, governmental, or recreational resource uses in the areas that are subject to the primary jurisdiction of the Department of the Interior; and

(iii) information prepared in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator of the Environmental Protection Agency, on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary.

Public disclosure by the Secretary of such information shall be consistent with national security regulations.

(C) A draft management plan for the proposed national marine sanctuary that includes the following:

(i) The terms of the proposed designation.

(ii) Proposed mechanisms to coordinate existing regulatory and management authorities within the area.

(iii) The proposed goals and objectives, management responsibilities, resource studies, and appropriate strategies for managing sanctuary resources of the proposed sanctuary, including interpretation and education, innovative management strategies, research, monitoring and assessment, resource protection, restoration, enforcement, and surveillance activities.

National Marine Sanctuaries Act

(iv) An evaluation of the advantages of cooperative State and Federal management if all or part of the proposed sanctuary is within the territorial limits of any State or is superjacent to the subsoil and seabed within the seaward boundary of a State, as that boundary is established under the Submerged Lands Act (43 U.S.C. 1301 et seq.).

(v) An estimate of the annual cost to the Federal Government of the proposed designation, including costs of personnel, equipment and facilities, enforcement, research, and public education.

(vi) The proposed regulations referred to in paragraph (1)(A).

(D) Maps depicting the boundaries of the proposed sanctuary.

(E) The basis for the determinations made under section 303(a) of this Act [16 U.S.C. 1433(a)] with respect to the area.

(F) An assessment of the considerations under section 303(b)(1) of this Act [16 U.S.C. 1433(b)(1)].

(Section 304(a)(3), Public hearing, omitted)

(4) The terms of designation of a sanctuary shall include the geographic area proposed to be included within the sanctuary, the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or esthetic value, and the types of activities that will be subject to regulation by the Secretary to protect those characteristics. The terms of designation may be modified only by the same procedures by which the original designation is made.

(Remainder of paragraph omitted)

(Subsections 304(b) and (c) omitted)

(c)(1) Nothing in this Act shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access that is in existence on the date of designation of any national marine sanctuary.

(2) The exercise of a lease, permit, license, or right is subject to regulation by the Secretary consistent with the purposes for which the sanctuary is designated.

16 U.S.C. 1434(a)(4),
Terms of designation

National Marine Sanctuaries Act

16 U.S.C. 1434(d),
Interagency
cooperation

16 U.S.C. 1434(d)(1),
Review of agency
actions

Agency statements
required

16 U.S.C. 1434(d)(2),
Secretary's recom-
mended alternatives

16 U.S.C. 1434(d)(3),
Response to
recommendations

16 U.S.C. 1434(d)(4),
Failure to follow
alternative

16 U.S.C. 1434(e),
Review of manage-
ment plans

(d)(1)(A) Federal agency actions internal or external to a national marine sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Secretary.

(B) Subject to any regulations the Secretary may establish each Federal agency proposing an action described in subparagraph (A) shall provide the Secretary with a written statement describing the action and its potential effects on sanctuary resources at the earliest practicable time, but in no case later than 45 days before the final approval of the action unless such Federal agency and the Secretary agree to a different schedule.

(2) If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall (within 45 days of receipt of complete information on the proposed agency action) recommend reasonable and prudent alternatives, which may include conduct of the action elsewhere, which can be taken by the Federal agency in implementing the agency action that will protect sanctuary resources.

(3) The agency head who receives the Secretary's recommended alternatives under paragraph (2) shall promptly consult with the Secretary on the alternatives. If the agency head decides not to follow the alternatives, the agency head shall provide the Secretary with a written statement explaining the reasons for that decision.

(4) If the head of a Federal agency takes an action other than an alternative recommended by the Secretary and such action results in the destruction of, loss of, or injury to a sanctuary resource, the head of the agency shall promptly prevent and mitigate further damage and restore or replace the sanctuary resource in a manner approved by the Secretary.

(e) Not more than five years after the date of designation of any national marine sanctuary, and thereafter at intervals not exceeding five years, the Secretary shall evaluate the substantive progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of

National Marine Sanctuaries Act

site-specific management techniques and strategies, and shall revise the management plan and regulations as necessary to fulfill the purposes and policies of this Act. This review shall include a prioritization of management objectives.

16 U.S.C. 1434(f),
Limitation on
designation of new
sanctuaries

(f)(1) The Secretary may not publish in the Federal Register any sanctuary designation notice or regulations proposing to designate a new sanctuary, unless the Secretary has published a finding that—

16 U.S.C. 1434(f)(1),
Finding required

(A) the addition of a new sanctuary will not have a negative impact on the System; and

(B) sufficient resources were available in the fiscal year in which the finding is made to—

(i) effectively implement sanctuary management plans for each sanctuary in the System; and

(ii) complete site characterization studies and inventory known sanctuary resources, including cultural resources, for each sanctuary in the System within 10 years after the date that the finding is made if the resources available for those activities are maintained at the same level for each fiscal year in that 10 year period.

16 U.S.C. 1434(f)(2),
Deadline

(2) If the Secretary does not submit the findings required by paragraph (1) before February 1, 2004, the Secretary shall submit to the Congress before October 1, 2004, a finding with respect to whether the requirements of subparagraphs (A) and (B) of paragraph (1) have been met by all existing sanctuaries.

16 U.S.C. 1434(f)(3),
Limitation on
application

(3) Paragraph (1) does not apply to any sanctuary designation documents for—

(A) a Thunder Bay National Marine Sanctuary; or

(B) a Northwestern Hawaiian Islands National Marine Sanctuary.

(Section 305 (16 U.S.C. 1435), Application of regulations, international negotiations, and cooperation, omitted)

16 U.S.C. 1436,
Prohibited activities

Section 306

It is unlawful for any person to—

(1) destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary;

National Marine Sanctuaries Act

(2) possess, sell, offer for sale, purchase, import, export, deliver, carry, transport, or ship by any means any sanctuary resource taken in violation of this section;

(3) interfere with the enforcement of this Act by—

(A) refusing to permit any officer authorized to enforce this Act to board a vessel, other than a vessel operated by the Department of Defense or United States Coast Guard, subject to such person's control for the purposes of conducting any search or inspection in connection with the enforcement of this Act;

(B) resisting, opposing, impeding, intimidating, harassing, bribing, interfering with, or forcibly assaulting any person authorized by the Secretary to implement this Act or any such authorized officer in the conduct of any search or inspection performed under this Act; or

(C) knowingly and willfully submitting false information to the Secretary or any officer authorized to enforce this Act in connection with any search or inspection conducted under this Act; or

(4) violate any provision of this Act or any regulation or permit issued pursuant to this Act.

(Sections 307 and 308 omitted)

16 U.S.C. 1440,
Research, monitoring,
and education

16 U.S.C. 1440(a),
In general

16 U.S.C. 1440(b),
Research and
monitoring

Section 309

(a) The Secretary shall conduct, support, or coordinate research, monitoring, evaluation, and education programs consistent with subsections (b) and (c) of this section and the purposes and policies of this Act.

(b)(1) The Secretary may—

(A) support, promote, and coordinate research on, and long-term monitoring of, sanctuary resources and natural processes that occur in national marine sanctuaries, including exploration, mapping, and environmental and socioeconomic assessment;

(B) develop and test methods to enhance degraded habitats or restore damaged, injured, or lost sanctuary resources; and

National Marine Sanctuaries Act

(C) support, promote, and coordinate research on, and the conservation, curation, and public display of, the cultural, archeological, and historical resources of national marine sanctuaries.

Availability of results

(2) The results of research and monitoring conducted, supported, or permitted by the Secretary under this subsection shall be made available to the public.

16 U.S.C. 1440(c),
Education

(c)(1) The Secretary may support, promote, and coordinate efforts to enhance public awareness, understanding, and appreciation of national marine sanctuaries and the System. Efforts supported, promoted, or coordinated under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries and the System.

Educational activities

(2) Activities under this subsection may include education of the general public, teachers, students, national marine sanctuary users, and ocean and coastal resource managers.

16 U.S.C. 1440(d),
Interpretive facilities

(d)(1) The Secretary may develop interpretive facilities near any national marine sanctuary.

Facility requirement

(2) Any facility developed under this subsection must emphasize the conservation goals and sustainable public uses of national marine sanctuaries by providing the public with information about the conservation, recreational, ecological, historical, cultural, archeological, scientific, educational, or esthetic qualities of the national marine sanctuary.

16 U.S.C. 1440(e),
Consultation and
coordination

(e) In conducting, supporting, and coordinating research, monitoring, evaluation, and education programs under subsection (a) and developing interpretive facilities under subsection (d) the Secretary may consult or coordinate with Federal, interstate, or regional agencies, States or local governments.

16 U.S.C. 1441,
Special use permits

Section 310

16 U.S.C. 1441(a),
Issuance of permits

(a) The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary—

(1) to establish conditions of access to and use of any sanctuary resource; or

National Marine Sanctuaries Act

- 16 U.S.C. 1441(b),
Public notice
required
- (2) to promote public use and understanding of a sanctuary resource.
- (b) The Secretary shall provide appropriate public notice before identifying any category of activity subject to a special use permit under subsection (a) of this section.
- 16 U.S.C. 1441(c),
Permit terms
- (c) A permit issued under this section—
- (1) shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;
- (2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;
- (3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and
- (4) shall require the permittee to purchase and maintain comprehensive general liability insurance, or post an equivalent bond, against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.
- (Section 310(d), Fees, omitted)
- 16 U.S.C. 1441(e),
Violations
- (e) Upon violation of a term or condition of a permit issued under this section, the Secretary may—
- (1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;
- (2) assess a civil penalty in accordance with section 307 of this Act [16 U.S.C. 1437]; or
- (3) both.
- 16 U.S.C. 1441(f),
Reports
- (f) Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

(Remaining text of this section and the remaining sections of this Act omitted)

Coastal Zone Management Act

PORTIONS, AS AMENDED

This Act became law on October 27, 1972 (Public Law 92-583, 16 U.S.C. 1451-1456) and has been amended eight times. This description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code.

16 U.S.C. 1451,
Congressional findings

Section 302

The Congress finds that—

(a) There is a national interest in the effective management, beneficial use, protection, and development of the coastal zone.

(b) The coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and esthetic resources of immediate and potential value to the present and future well-being of the Nation.

(c) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, including requirements for industry, commerce, residential development, recreation, extraction of mineral resources and fossil fuels, transportation and navigation, waste disposal, and harvesting of fish, shellfish, and other living marine resources, have resulted in the loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use, and shoreline erosion.

(d) The habitat areas of the coastal zone, and the fish, shellfish, other living marine resources, and wildlife therein, are ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.

(e) Important ecological, cultural, historic, and esthetic values in the coastal zone which are essential to the well-being of all citizens are being irretrievably damaged or lost.

(f) New and expanding demands for food, energy, minerals, defense needs, recreation, waste disposal, transportation, and industrial activities in the Great Lakes, territorial sea, exclusive economic zone, and Outer Continental Shelf are placing stress on these areas and are creating the need for resolution of serious conflicts among important and competing uses and values in coastal and ocean waters; [sic; should be period]

Coastal Zone Management Act

- (g) Special natural and scenic characteristics are being damaged by ill-planned development that threatens these values.
- (h) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate.
- (i) The key to more effective protection and use of the land and water resources of the coastal zone is to encourage the states to exercise their full authority over the lands and waters in the coastal zone by assisting the states, in cooperation with Federal and local governments and other vitally affected interests, in developing land and water use programs for the coastal zone, including unified policies, criteria, standards, methods, and processes for dealing with land and water use decisions of more than local significance.
- (j) The national objective of attaining a greater degree of energy self-sufficiency would be advanced by providing Federal financial assistance to meet state and local needs resulting from new or expanded energy activity in or affecting the coastal zone.
- (k) Land uses in the coastal zone, and the uses of adjacent lands which drain into the coastal zone, may significantly affect the quality of coastal waters and habitats, and efforts to control coastal water pollution from land use activities must be improved.
- (l) Because global warming may result in a substantial sea level rise with serious adverse effects in the coastal zone, coastal states must anticipate and plan for such an occurrence.
- (m) Because of their proximity to and reliance upon the ocean and its resources, the coastal states have substantial and significant interests in the protection, management, and development of the resources of the exclusive economic zone that can only be served by the active participation of coastal states in all Federal programs affecting such resources and, wherever appropriate, by the development of state ocean resource plans as part of their federally approved coastal zone management programs.

Coastal Zone Management Act

16 U.S.C. 1452,
Congressional declaration of policy

Section 303

The Congress finds and declares that it is the national policy—

(1) to preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations;

(2) to encourage and assist the states to exercise effectively their responsibilities in the coastal zone through the development and implementation of management programs to achieve wise use of the land and water resources of the coastal zone, giving full consideration to ecological, cultural, historic, and esthetic values as well as the needs for compatible economic development, which programs should at least provide for—

(A) the protection of natural resources, including wetlands, floodplains, estuaries, beaches, dunes, barrier islands, coral reefs, and fish and wildlife and their habitat, within the coastal zone,

(B) the management of coastal development to minimize the loss of life and property caused by improper development in flood-prone, storm surge, geological hazard, and erosion-prone areas and in areas likely to be affected by or vulnerable to sea level rise, land subsidence, and saltwater intrusion, and by the destruction of natural protective features such as beaches, dunes, wetlands, and barrier islands,

(C) the management of coastal development to improve, safeguard, and restore the quality of coastal waters, and to protect natural resources and existing uses of those waters,

(D) priority consideration being given to coastal-dependent uses and orderly processes for siting major facilities related to national defense, energy, fisheries development, recreation, ports and transportation, and the location, to the maximum extent practicable, of new commercial and industrial developments in or adjacent to areas where such development already exists,

(E) public access to the coasts for recreation purposes,

(F) assistance in the redevelopment of deteriorating urban waterfronts and ports, and sensitive preservation and restoration of historic, cultural, and esthetic coastal features,

Coastal Zone Management Act

(G) the coordination and simplification of procedures in order to ensure expedited governmental decisionmaking for the management of coastal resources,

(H) continued consultation and coordination with, and the giving of adequate consideration to the views of, affected Federal agencies,

(I) the giving of timely and effective notification of, and opportunities for public and local government participation in, coastal management decisionmaking,

(J) assistance to support comprehensive planning, conservation, and management for living marine resources, including planning for the siting of pollution control and aquaculture facilities within the coastal zone, and improved coordination between State and Federal coastal zone management agencies and State and [sic; Federal?] wildlife agencies, and

(K) the study and development, in any case in which the Secretary considers it to be appropriate, of plans for addressing the adverse effects upon the coastal zone of land subsidence and of sea level rise; and

(3) to encourage the preparation of special area management plans which provide for increased specificity in protecting significant natural resources, reasonable coastal-dependent economic growth, improved protection of life and property in hazardous areas, including those areas likely to be affected by land subsidence, sea level rise, or fluctuating water levels of the Great Lakes, and improved predictability in governmental decisionmaking;

(4) to encourage the participation and cooperation of the public, state [sic] and local governments, and interstate and other regional agencies, as well as of the Federal agencies having programs affecting the coastal zone, in carrying out the purposes of this Act;

(5) to encourage coordination and cooperation with and among the appropriate Federal, State, and local agencies, and international organizations where appropriate, in collection, analysis, synthesis, and dissemination of coastal management information, research results, and technical assistance, to support State and Federal regulation of land use practices affecting the coastal and ocean resources of the United States; and

Coastal Zone Management Act

16 U.S.C. 1453,
Definitions

(6) to respond to changing circumstances affecting the coastal environment and coastal resource management by encouraging States to consider such issues as ocean uses potentially affecting the coastal zone.

Section 304

For purposes of this Act—

(1) The term “**coastal zone**” means the coastal waters (including the lands therein and thereunder) and the adjacent shorelands (including the waters therein and thereunder), strongly influenced by each other and in proximity to the shorelines of the several coastal states, and includes islands, transitional and intertidal areas, salt marshes, wetlands, and beaches. The zone extends, in Great Lakes waters, to the international boundary between the United States and Canada and, in other areas, seaward to the outer limit of State title and ownership under the Submerged Lands Act (43 U.S.C. 1301 et seq.), the Puerto Rican Federal Relations Act (the Act of March 2, 1917, 48 U.S.C. 749) [48 U.S.C. 731 et seq.], the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, as approved by the Act of March 24, 1976 [48 U.S.C. 1801 et seq.], or section 1 of the Act of November 20, 1963 [submerged lands, Guam, Virgin Island, and American Samoa] (48 U.S.C. 1705), as applicable. The zone extends inland from the shorelines only to the extent necessary to control shorelands, the uses of which have a direct and significant impact on the coastal waters, and to control those geographical areas which are likely to be affected by or vulnerable to sea level rise. Excluded from the coastal zone are lands the use of which is by law subject solely to the discretion of or which is held in trust by the Federal Government, its officers or agents.

(Definitions (2) through (15) omitted)

(16) The term “**Secretary**” means the Secretary of Commerce.

(Remainder of Section 304 omitted)

Coastal Zone Management Act

16 U.S.C. 1454,
Submittal of State
program for approval

Section 305

Any coastal state which has completed the development of its management program shall submit such program to the Secretary for review and approval pursuant to section 306 of this Act [16 U.S.C. 1455].

16 U.S.C. 1455,
Administrative grants

Section 306

(Subsections 306(a), (b), and (c) omitted)

(d) Before approving a management program submitted by a coastal state, the Secretary shall find the following:

16 U.S.C. 1455(d),
Mandatory adoption
of State management
program for coastal
zone

(1) The State has developed and adopted a management program for its coastal zone in accordance with rules and regulations promulgated by the Secretary, after notice, and with the opportunity of full participation by relevant Federal agencies, State agencies, local governments, regional organizations, port authorities, and other interested parties and individuals, public and private, which is adequate to carry out the purposes of this Act and is consistent with the policy declared in section 303 of this Act [16 U.S.C. 1452].

(2) The management program includes each of the following required program elements:

(A) An identification of the boundaries of the coastal zone subject to the management program.

(B) A definition of what shall constitute permissible land uses and water uses within the coastal zone which have a direct and significant impact on the coastal waters.

(C) An inventory and designation of areas of particular concern within the coastal zone.

(D) An identification of the means by which the State proposes to exert control over the land uses and water uses referred to in subparagraph (B), including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.

(E) Broad guidelines on priorities of uses in particular areas, including specifically those uses of lowest priority.

Coastal Zone Management Act

(F) A description of the organizational structure proposed to implement such management program, including the responsibilities and interrelationships of local, area-wide, State, regional, and interstate agencies in the management process.

(G) A definition of the term “beach” and a planning process for the protection of, and access to, public beaches and other public coastal areas of environmental, recreational, historical, esthetic, ecological, or cultural value.

(H) A planning process for energy facilities likely to be located in, or which may significantly affect, the coastal zone, including a process for anticipating the management of the impacts resulting from such facilities.

(I) A planning process for assessing the effects of, and studying and evaluating ways to control, or lessen the impact of, shoreline erosion, and to restore areas adversely affected by such erosion.

(3) The State has—

(A) coordinated its program with local, areawide, and interstate plans applicable to areas within the coastal zone—

(i) existing on January 1 of the year in which the State’s management program is submitted to the Secretary; and

(ii) which have been developed by a local government, an areawide agency, a regional agency, or an interstate agency; and

(B) established an effective mechanism for continuing consultation and coordination between the management agency designated pursuant to paragraph (6) and with local governments, interstate agencies, regional agencies, and areawide agencies within the coastal zone to assure the full participation of those local governments and agencies in carrying out the purposes of this Act; except that the Secretary shall not find any mechanism to be effective for purposes of this subparagraph unless it requires that—

(i) the management agency, before implementing any management program decision which would conflict with any local zoning ordinance, decision, or other action, shall send a notice of the management program decision to any local government whose zoning authority is affected;

Coastal Zone Management Act

(ii) within the 30-day period commencing on the date of receipt of that notice, the local government may submit to the management agency written comments on the management program decision, and any recommendation for alternatives; and

(iii) the management agency, if any comments are submitted to it within the 30-day period by any local government—

(I) shall consider the comments;

(II) may, in its discretion, hold a public hearing on the comments; and

(III) may not take any action within the 30-day period to implement the management program decision.

(4) The State has held public hearings in the development of the management program.

(5) The management program and any changes thereto have been reviewed and approved by the Governor of the State.

(6) The Governor of the State has designated a single State agency to receive and administer grants for implementing the management program.

(7) The State is organized to implement the management program.

(8) The management program provides for adequate consideration of the national interest involved in planning for, and managing the coastal zone, including the siting of facilities such as energy facilities which are of greater than local significance. In the case of energy facilities, the Secretary shall find that the State has given consideration to any applicable national or interstate energy plan or program.

(9) The management program includes procedures whereby specific areas may be designated for the purpose of preserving or restoring them for their conservation, recreational, ecological, historical, or esthetic values.

(10) The State, acting through its chosen agency or agencies (including local governments, areawide agencies, regional agencies, or interstate agencies) has authority for the management of the coastal zone in accordance with the management program. Such authority shall include power—

Coastal Zone Management Act

(A) to administer land use and water use regulations to control development, to ensure compliance with the management program, and to resolve conflicts among competing uses; and

(B) to acquire fee simple and less than fee simple interests in land, waters, and other property through condemnation or other means when necessary to achieve conformance with the management program.

(11) The management program provides for any one or a combination of the following general techniques for control of land uses and water uses within the coastal zone:

(A) State establishment of criteria and standards for local implementation, subject to administrative review and enforcement.

(B) Direct State land and water use planning and regulation.

(C) State administrative review for consistency with the management program of all development plans, projects, or land and water use regulations, including exceptions and variances thereto, proposed by any State or local authority or private developer, with power to approve or disapprove after public notice and an opportunity for hearings.

(12) The management program contains a method of assuring that local land use and water use regulations within the coastal zone do not unreasonably restrict or exclude land uses and water uses of regional benefit.

(13) The management program provides for—

(A) the inventory and designation of areas that contain one or more coastal resources of national significance; and

(B) specific and enforceable standards to protect such resources.

(14) The management program provides for public participation in permitting processes, consistency determinations, and other similar decisions.

(15) The management program provides a mechanism to ensure that all State agencies will adhere to the program.

Coastal Zone Management Act

(16) The management program contains enforceable policies and mechanisms to implement the applicable requirements of the Coastal Nonpoint Pollution Control Program of the State required by section 306(b) of this Act [16 U.S.C. 1455(b)].

(Section 306(e), Amendment or modification of State management program for coastal zone, omitted)

16 U.S.C. 1456,
Coordination and
cooperation

16 U.S.C. 1456(a),
Federal agencies

16 U.S.C. 1456(b),
Adequate consid-
eration of views of
Federal agencies

16 U.S.C. 1456(c),
Consistency of
Federal activities
with State manage-
ment programs,
Presidential exemp-
tion, certification

Section 307

(a) In carrying out his functions and responsibilities under this Act, the Secretary shall consult with, cooperate with, and, to the maximum extent practicable, coordinate his activities with other interested Federal agencies.

(b) The Secretary shall not approve the management program submitted by a state pursuant to section 306 of this Act [16 U.S.C. 1455] unless the views of Federal agencies principally affected by such program have been adequately considered.

(c)(1)(A) Each Federal agency activity within or outside the coastal zone that affects any land or water use or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs. A Federal agency activity shall be subject to this paragraph unless it is subject to paragraph (2) or (3).

(Paragraph (c)(1)(B), Court decisions and Presidential exemptions from compliance, omitted)

(C) Each Federal agency carrying out an activity subject to paragraph (1) shall provide a consistency determination to the relevant State agency designated under section 306(d)(6) of this Act [16 U.S.C. 1455(d)(6)] at the earliest practicable time, but in no case later than 90 days before final approval of the Federal activity unless both the Federal agency and the State agency agree to a different schedule.

(Paragraph (c)(2) omitted)

Coastal Zone Management Act

(3)(A) After final approval by the Secretary of a state's management program, any applicant for required Federal license or permit to conduct an activity, in or outside of the coastal zone, affecting any land or water use or natural resource of the coastal zone of that state shall provide in the application to the licensing or permitting agency a certification that the proposed activity complies with the enforceable policies of the state's approved program and that such activity will be conducted in a manner consistent with the program. At the same time, the applicant shall furnish to the state or its designated agency a copy of the certification, with all necessary information and data. Each coastal state shall establish procedures for public notice in the case of all such certifications and, to the extent it deems appropriate, procedures for public hearings in connection therewith. At the earliest practicable time, the state or its designated agency shall notify the Federal agency concerned that the state concurs with or objects to the applicant's certification. If the state or its designated agency fails to furnish the required notification within six months after receipt of its copy of the applicant's certification, the state's concurrence with the certification shall be conclusively presumed. No license or permit shall be granted by the Federal agency until the state or its designated agency has concurred with the applicant's certification or until, by the state's failure to act, the concurrence is conclusively presumed, unless the Secretary, on his own initiative or upon appeal by the applicant, finds after providing a reasonable opportunity for detailed comments from the Federal agency involved and from the state, that the activity is consistent with the objectives of this Act or is otherwise necessary in the interest of national security.

(Remainder of subsection (c) omitted)

Coastal Zone Management Act

16 U.S.C. 1456(d),
Application of local
governments for
Federal assistance,
relationship of
activities with
approved manage-
ment programs

(d) State and local governments submitting applications for Federal assistance under other Federal programs, in or outside of the coastal zone, affecting any land or water use of [sic; probably should be “or”] natural resource of the coastal zone shall indicate the views of the appropriate state or local agency as to the relationship of such activities to the approved management program for the coastal zone. Such applications shall be submitted and coordinated in accordance with the provisions of Title IV of the Intergovernmental Cooperation Act of 1968 as amended [31 U.S.C. 6506]. Federal agencies shall not approve proposed projects that are inconsistent with the enforceable policies of a coastal state’s management program, except upon a finding by the Secretary that such project is consistent with the purposes of this Act or necessary in the interest of national security.

16 U.S.C. 1456(e),
Construction with
other laws

(e) Nothing in this Act shall be construed—

(1) to diminish either Federal or state jurisdiction, responsibility, or rights in the field of planning, development, or control of water resources, submerged lands, or navigable waters; nor to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more states or of two or more states and the Federal Government; nor to limit the authority of Congress to authorize and fund projects;

(2) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies; nor to affect the jurisdiction, powers, or prerogatives of the International Joint Commission, United States and Canada, the Permanent Engineering Board, and the United States operating entity or entities established pursuant to the Columbia River Basin Treaty, signed at Washington, January 17, 1961, or the International Boundary and Water Commission, United States and Mexico.

(Subsection (f) omitted)

Coastal Zone Management Act

16 U.S.C. 1456(g),
Concurrence with
programs which affect
inland areas

(g) When any state's coastal zone management program, submitted for approval or proposed for modification pursuant to section 306 of this Act [16 U.S.C. 1455], includes requirements as to shorelands which also would be subject to any Federally supported national land use program which may be hereafter enacted, the Secretary, prior to approving such program, shall obtain the concurrence of the Secretary of the Interior, or such other Federal official as may be designated to administer the national land use program, with respect to that portion of the coastal zone management program affecting such inland areas.

(Remainder of Section 307 and all of Section 308 omitted)

16 U.S.C. 1456b,
Coastal zone enhance-
ment grants

16 U.S.C. 1456b(a),
Coastal zone enhance-
ment objective
defined

Section 309

(a) For purposes of this section, the term “**coastal zone enhancement objective**” means any of the following objectives:

(1) Protection, restoration, or enhancement of the existing coastal wetlands base, or creation of new coastal wetlands.

(2) Preventing or significantly reducing threats to life and destruction of property by eliminating development and redevelopment in high-hazard areas, managing development in other hazard areas, and anticipating and managing the effects of potential sea level rise and Great Lakes level rise.

(3) Attaining increased opportunities for public access, taking into account current and future public access needs, to coastal areas of recreational, historical, aesthetic, ecological, or cultural value.

(4) Reducing marine debris entering the Nation's coastal and ocean environment by managing uses and activities that contribute to the entry of such debris.

(5) Development and adoption of procedures to assess, consider, and control cumulative and secondary impacts of coastal growth and development, including the collective effect on various individual uses or activities on coastal resources, such as coastal wetlands and fishery resources.

Coastal Zone Management Act

(6) Preparing and implementing special area management plans for important coastal areas.

(7) Planning for the use of ocean resources.

(8) Adoption of procedures and enforceable policies to help facilitate the siting of energy facilities and Government facilities and energy-related activities and Government activities which may be of greater than local significance.

(9) Adoption of procedures and policies to evaluate and facilitate the siting of public and private aquaculture facilities in the coastal zone, which will enable States to formulate, administer, and implement strategic plans for marine aquaculture.

16 U.S.C. 1456b(b),
Limits on grants

(b)(1) Subject to the limitations and goals established in this section, the Secretary may make grants to coastal states to provide funding for development and submission for Federal approval of program changes that support attainment of one or more coastal zone enhancement objectives.

(2)(A) In addition to any amounts provided under section 306 of this Act [16 U.S.C. 1455], and subject to the availability of appropriations, the Secretary may make grants under this subsection to States for implementing program changes approved by the Secretary in accordance with section 306(e) of this Act [16 U.S.C. 1455(e)].

(B) Grants under this paragraph to implement a program change may not be made in any fiscal year after the second fiscal year that begins after the approval of that change by the Secretary.

(Remainder of the Act omitted)

Department of Transportation Act

SECTION 4(I) AS CREATED BY THE AMTRAK IMPROVEMENT ACT, AS AMENDED

The Amtrak Improvement Act became law on October 28, 1974 (Public Law 93-496, 49 U.S.C. 5561-5567, formerly 49 U.S.C. 1653i) as an amendment to the Department of Transportation Act (Public Law 89-670). It has been amended seven times. The description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code. We have added extra code citations because of the complex amendment history.

49 U.S.C. 5561-5567,
Terminals

49 U.S.C. 5562,
Terminal assistance
projects

49 U.S.C. 5562(a),
Requirements to pro-
vide assistance

49 U.S.C. 5562(a)(1)-(4),
Purposes

49 U.S.C. 5563,
Conversion of cer-
tain rail passenger
terminals, authority
to provide assistance

Section 4(i)

(1) The Secretary of Transportation shall provide financial, technical, and advisory assistance under this chapter to—

(A) promote, on a feasibility demonstration basis, the conversion of at least 3 rail passenger terminals into intermodal transportation terminals;

(B) preserve rail passenger terminals that reasonably are likely to be converted or maintained pending preparation of plans for their reuse;

(C) acquire and use space in suitable buildings of historic or architectural significance but only if use of the space is feasible and prudent when compared to available alternatives; and

(D) encourage State and local governments, local and regional transportation authorities, common carriers, philanthropic organizations, and other responsible persons to develop plans to convert rail passenger terminals into intermodal transportation terminals and civic and cultural activity centers.

(2) The Secretary of Transportation may provide financial assistance to convert a rail passenger terminal to an intermodal transportation terminal under section 4(i)(1)(A) of this Act [49 U.S.C. 5562(a)(1)] only if—

Department of Transportation Act, Section 4(i)

- 49 U.S.C. 5563(a)(1) (A) the terminal can be converted to accommodate other modes of transportation the Secretary of Transportation decides are appropriate, including—
- 49 U.S.C. 5563 (a)(1)(i)
- (i) motorbus transportation;
 - (ii) mass transit (rail or rubber tire); and
 - (iii) airline ticket offices and passenger terminals providing direct transportation to area airports;
- 49 U.S.C. 5563(a)(2) (B) the terminal is listed on the National Register of Historic Places maintained by the Secretary of the Interior;
- 49 U.S.C. 5563(a)(3) (C) the architectural integrity of the terminal will be preserved;
- 49 U.S.C. 5563(a)(4) (D) to the extent practicable, the use of the terminal facilities for transportation may be combined with use of those facilities for other civic and cultural activities, especially when another activity is recommended by—
- 49 U.S.C. 5563(a)(4)(A)
- (i) the Advisory Council on Historic Preservation;
 - (ii) the Chairman of the National Endowment for the Arts; or
 - (iii) consultants retained under subsection(b) of this section; and
- 49 U.S.C. 5563(a)(5) (E) the terminal and the conversation project meet other criteria prescribed by the Secretary of Transportation after consultation with the Council and the Chairman.
- 49 U.S.C. 5563(b),
Architectural integrity
- The Secretary of Transportation must employ consultants on whether the architectural integrity of the rail passenger terminal will be preserved under subsection (i)(1)(C) of this section. The Secretary may decide that the architectural integrity will be preserved only if the consultants concur. The Council and Chairman shall recommend consultants to be employed by the Secretary. The consultants also may make recommendations referred to in subsection (i)(1)(D) [49 U.S.C. 5563 (A)(4)] of this section.
- 49 U.S.C. 5563(c),
Government's share of costs
- The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of converting a rail passenger terminal into an intermodal transportation terminal.

Department of Transportation Act, Section 4(i)

49 U.S.C. 5564,
Interim preservation of
certain rail passenger
terminals

49 U.S.C. 5564(a),
General grant
authority

49 U.S.C. 5564(b),
Grant requirements

49 U.S.C. 5564(b)(i)

49 U.S.C. 5564(c),
Maximizing preserva-
tion of terminals

49 U.S.C. 5564(c)(i)

49 U.S.C. 5564(c)(i)(A)

49 U.S.C. 5564(c)(2)

(3)(A) Subject to paragraph 4(i)(3)(B) of this section [49 U.S.C. 5564(b)], the Secretary of Transportation may make a grant of financial assistance to a responsible person (including a governmental authority) to preserve a rail passenger terminal under section 4(i)(1)(B) of this Act [49 U.S.C. 5562(a)(2)]. To receive assistance under this section, the person must be qualified, prepared, committed, and authorized by law to maintain (and prevent the demolition, dismantling, or further deterioration of) the terminal until plans for its reuse are prepared.

(B) The Secretary of Transportation may make a grant of financial assistance under this section only if—

(i) the Secretary decides the rail passenger terminal has a reasonable likelihood of being converted to, or conditioned for reuse as, an intermodal transportation terminal, a civic or cultural activities center, or both; and

(ii) planning activity directed toward conversion or reuse has begun and is proceedings in a competent way.

(C) Maximizing Preservation of Terminals.—

(i) Amounts appropriated to carry out this section and section 4(i)(1)(B) of this Act [49 U.S.C. 5562(a)(2)] of this title shall be expended in the way most likely to maximize the preservation of rail passenger terminals that are—

(I) reasonably capable of conversion to intermodal transportation terminals;

(II) listed in the National Register of Historic Places maintained by the Secretary of Interior; or

(III) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

(ii) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of maintaining the terminal for an interim period of not more than 5 years.

Department of Transportation Act, Section 4(i)

49 U.S.C. 5562(c),
Consultation

(4) The Secretary may acquire space under subsection (1)(c) [49 U.S.C. 5562(a)(3)] of this section only after consulting with the Advisory Council on Historic Preservation and the Chairman of the National Endowment for the Arts.

49 U.S.C. 5565,
Encouraging the development of plans for converting certain rail passenger terminals

(5)(A) The Secretary of Transportation may make a grant of financial assistance to a qualified person (including a governmental authority) to encourage the development of plans for converting a rail passenger terminal under section 4(i)(1)(D) of this Act [49 U.S.C. 5562(a)(4)]. To receive assistance under this section, the person must—

49 U.S.C. 5565(a),
General grant authority

(i) be prepared to develop practicable plans that meet zoning, land use, and other requirements of the applicable State and local jurisdictions in which the terminal is located;

49 U.S.C. 5565(a)(1)

(ii) incorporate into the designs and plans proposed for converting the terminal, features that reasonably appear likely to attract private investors willing to carry out the planned conversion and its subsequent maintenance and operation; and

(iii) complete the designs and plans for the conversion within the period of time prescribed by the Secretary.

49 U.S.C. 5565(b),
Preference

(B) In making a grant under this section, the Secretary of Transportation shall give preferential consideration to an applicant whose completed designs and plans will be carried out within 3 years after their completion.

49 U.S.C. 5565(c),
Maximizing conversion and continued public use

(C)(i) Amounts appropriated to carry out this section and section 4(i)(2)(D) of this Act [49 U.S.C. 5562(a)(4)] shall be expended in the way most likely to maximize the conversion and continued public use of rail passenger terminals that are—

49 U.S.C. 5565 (c)(i)

(I) listed in the National Register of Historic Places maintained by the Secretary of Interior; or

49 U.S.C. 5565(c)(i)(A)

(II) recommended (on the basis of architectural integrity and quality) by the Advisory Council on Historic Preservation or the Chairman of the National Endowment for the Arts.

Department of Transportation Act, Section 4(i)

49 U.S.C. 5565(c)(2)

(ii) The Secretary of Transportation may not make a grant under this section for more than 80 percent of the total cost of the project for which the financial assistance is provided.

(Subsection 4(i)(6) omitted)

49 U.S.C. 5567,
Amtrak use, prefer-
ence for preserving
buildings of historic
or architectural
significance

(7) Amtrak shall give preference to the use of rail passenger terminal facilities that will preserve buildings of historic or architectural significance.

(Subsections 4(i)(8) and (9) omitted)

49 U.S.C. 5561,
Definition

(10) In this chapter, “**civic and cultural activities**” includes libraries, musical and dramatic presentations, art exhibits, adult education programs, public meeting places, and other facilities for carrying on an activity any part of which is supported under a law of the United States.

49 U.S.C. 5562(b),
Effects on eligibility

(11) This Act does not affect the eligibility of any rail passenger terminal for preservation or reuse assistance under another program or law.

(Remainder of the Act omitted)

Mining in the National Parks Act, Section 9

This Act became law on September 28, 1976 (Public Law 94-429; 16 U.S.C. 1908). It has not been amended. The description of the Act tracks the language of the United States Code except that (following common usage) we refer to the "Act" rather than the "subchapter" or the "title" of the Code.

16 U.S.C. 1908,
Landmarks and
surface mining

Section 9

(a) Whenever the Secretary of the Interior finds on his own motion or upon being notified in writing by an appropriate scientific, historical, or archeological authority, that a district, site, building, structure, or object which has been found to be nationally significant in illustrating natural history or the history of the United States and which has been designated as a natural or historical landmark may be irreparably lost or destroyed in whole or in part by any surface mining activity, including exploration for or removal or production of minerals or materials, he shall notify the person conducting such activity and submit a report thereon, including the basis for his finding that such activity may cause irreparable loss or destruction of a national landmark, to the Advisory Council on Historic Preservation, with a request for advice of the Council as to alternative measures that may be taken by the United States to mitigate or abate such activity.

(Remainder of Act omitted)

Public Buildings Cooperative Use Act

PORTION

This Act became law on October 18, 1976 (Public Law 94-541, 40 U.S.C. 601a). It has not been amended. The description of the Act tracks the language of the United States Code except that (following common usage) we refer to the "Act" rather than to the "subchapter" or the "title" of the Code.

40 U.S.C. 601a,
General Services
Administration use
of historically and
architecturally signifi-
cant buildings

Section 102

(a) In order to carry out his duties under this Act and under any other authority with respect to constructing, operating, maintaining, altering, and otherwise managing or acquiring space necessary for the accommodation of Federal agencies and to accomplish the purposes of this title, the Administrator [of the General Services Administration] shall—

(1) acquire and utilize space in suitable buildings of historic, architectural, or cultural significance, unless use of such space would not prove feasible and prudent compared with available alternatives;

(2) encourage the location of commercial, cultural, educational, and recreational facilities and activities within public buildings;

(3) provide and maintain space, facilities, and activities, to the extent practicable, which encourage public access to and stimulate public pedestrian traffic around, into, and through public buildings, permitting cooperative improvements to and uses of the area between the building and the street, so that such activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

(4) encourage the public use of public buildings for cultural, educational, and recreational activities.

(b) In carrying out his duties under subsection (a) of this section, the Administrator shall consult with Governors, areawide agencies established pursuant to Title II of the Demonstration Cities and Metropolitan Development Act of 1966 [42 U.S.C. 3331 et seq.] and Title IV of the Intergovernmental Cooperation Act of 1968, as amended [31 U.S.C. 6506], and chief executive officers of those units of general local government in each area served by an existing or proposed public building, and shall solicit the comments of such other community leaders and members of the general public as he deems appropriate.

American Indian Religious Freedom Act

PORTION, AS AMENDED

This Act became law on August 11, 1978 (Public Law 95-341, 42 U.S.C. 1996 and 1996a) and has been amended once. The description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the "Act" (meaning the Act, as amended) rather than to the "subchapter" or the "title" of the Code.

42 U.S.C. 1996,
Protection and preservation of traditional religions of Native Americans

Section 1

On and after August 11, 1978, it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.

42 U.S.C. 1996 note,
Federal implementation of protective and preservation functions relating to Native American religious cultural rights and practices; Presidential report to Congress

Section 2

The President shall direct the various Federal departments, agencies, and other instrumentalities responsible for administering relevant laws to evaluate their policies and procedures in consultation with native traditional religious leaders in order to determine appropriate changes necessary to protect and preserve Native American religious cultural rights and practices. Twelve months after August 11, 1978, the President shall report back to Congress the results of his evaluation, including any changes* which were made in administrative policies and procedures, and any recommendations he may have for legislative action.

*One of the changes in administrative policy and procedure was Executive Order 13007, Indian Sacred Sites.

Archaeological Resources Protection Act

AS AMENDED

This Act became law on October 31, 1979 (Public Law 96-95; 16 U.S.C. 470aa-mm), and has been amended four times. This description of the Act, as amended, tracks the language of the United States Code except that (following common usage) we refer to the “Act” (meaning the Act, as amended) rather than to the “subchapter” or the “title” of the Code.

16 U.S.C. 470aa,
Findings and purpose

Section 2

(a) The Congress finds that—

(1) archaeological resources on public lands and Indian lands are an accessible and irreplaceable part of the Nation’s heritage;

(2) these resources are increasingly endangered because of their commercial attractiveness;

(3) existing Federal laws do not provide adequate protection to prevent the loss and destruction of these archaeological resources and sites resulting from uncontrolled excavations and pillage; and

(4) there is a wealth of archaeological information which has been legally obtained by private individuals for non-commercial purposes and which could voluntarily be made available to professional archaeologists and institutions.

(b) The purpose of this Act is to secure, for the present and future benefit of the American people, the protection of archaeological resources and sites which are on public lands and Indian lands, and to foster increased cooperation and exchange of information between governmental authorities, the professional archaeological community, and private individuals having collections of archaeological resources and data which were obtained before October 31, 1979 [the date of the enactment of this Act].

16 U.S.C. 470bb,
Definitions

Section 3

As used in this Act—

(1) the term “**archaeological resource**” means any material remains of past human life or activities which are of archaeological interest, as determined under uniform regulations promulgated pursuant to this Act. Such regulations containing such determination shall include, but not

Archaeological Resources Protection Act

be limited to: pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, human skeletal materials, or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources, under the regulations under this paragraph, unless found in an archaeological context. No item shall be treated as an archaeological resource under regulations under this paragraph unless such item is at least 100 years of age.

(2) The term “**Federal land manager**” means, with respect to any public lands, the Secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands. In the case of any public lands or Indian lands with respect to which no department, agency, or instrumentality has primary management authority, such term means the Secretary of the Interior. If the Secretary of the Interior consents, the responsibilities (in whole or in part) under this Act of the Secretary of any department (other than the Department of the Interior) or the head of any other agency or instrumentality may be delegated to the Secretary of the Interior with respect to any land managed by such other Secretary or agency head, and in any such case, the term “**Federal land manager**” means the Secretary of the Interior.

(3) The term “**public lands**” means—

(A) lands which are owned and administered by the United States as part of—

- (i) the national park system,
- (ii) the national wildlife refuge system, or
- (iii) the national forest system; and

(B) all other lands the fee title to which is held by the United States, other than lands on the Outer Continental Shelf and lands which are under the jurisdiction of the Smithsonian Institution.

Archaeological Resources Protection Act

(4) The term “**Indian lands**” means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for any subsurface interests in lands not owned or controlled by an Indian tribe or an Indian individual.

(5) The term “**Indian tribe**” means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C. 1601 et seq.).

(6) The term “**person**” means an individual, corporation, partnership, trust, institution, association, or any other private entity or any officer, employee, agent, department, or instrumentality of the United States, of any Indian tribe, or of any State or political subdivision thereof.

(7) The term “**State**” means any of the fifty States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

16 U.S.C. 470cc,
Excavation and
removal

Section 4

16 U.S.C. 470cc(a),
Application for permit

(a) Any person may apply to the Federal land manager for a permit to excavate or remove any archaeological resource located on public lands or Indian lands and to carry out activities associated with such excavation or removal. The application shall be required, under uniform regulations under this Act, to contain such information as the Federal land manager deems necessary, including information concerning the time, scope, and location and specific purpose of the proposed work.

16 U.S.C. 470cc(b),
Determinations by
Federal land manager
prerequisite to issuance
of permit

(b) A permit may be issued pursuant to an application under subsection (a) of this section if the Federal land manager determines, pursuant to uniform regulations under this Act, that—

(1) the applicant is qualified, to carry out the permitted activity,

(2) the activity is undertaken for the purpose of furthering archaeological knowledge in the public interest,

Archaeological Resources Protection Act

(3) the archaeological resources which are excavated or removed from public lands will remain the property of the United States, and such resources and copies of associated archaeological records and data will be preserved by a suitable university, museum, or other scientific or educational institution, and

(4) the activity pursuant to such permit is not inconsistent with any management plan applicable to the public lands concerned.

16 U.S.C. 470cc(c),
Notification to Indian
tribes of possible harm
to or destruction of
sites having religious
or cultural importance

(c) If a permit issued under this section may result in harm to, or destruction of, any religious or cultural site, as determined by the Federal land manager, before issuing such permit, the Federal land manager shall notify any Indian tribe which may consider the site as having religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 9 of this Act.

16 U.S.C. 470cc(d),
Terms and conditions
of permit

(d) Any permit under this section shall contain such terms and conditions, pursuant to uniform regulations promulgated under this Act, as the Federal land manager concerned deems necessary to carry out the purposes of this Act.

16 U.S.C. 470cc(e),
Identification of individuals responsible for complying with permit terms and conditions and other applicable laws

(e) Each permit under this section shall identify the individual who shall be responsible for carrying out the terms and conditions of the permit and for otherwise complying with this Act and other law applicable to the permitted activity.

16 U.S.C. 470cc(f),
Suspension or revocation of permits, grounds

(f) Any permit issued under this section may be suspended by the Federal land manager upon his determination that the permittee has violated any provision of subsection (a), (b), or (c) of section 6 of this Act. Any such permit may be revoked by such Federal land manager upon assessment of a civil penalty under section 7 of this Act against the permittee or upon the permittee's conviction under section 6 of this Act.

16 U.S.C. 470cc(g),
Excavation or removal by Indian tribes or tribe members, excavation or removal of resources located on Indian lands

(g)(1) No permit shall be required under this section or under the Act of June 8, 1906 (16 U.S.C. 431), for the excavation or removal by any Indian tribe or member thereof of any archaeological resource located on Indian lands of such Indian tribe, except that in the absence of tribal law regulating the excavation or removal of archaeological resources on Indian lands, an individual tribal member shall be required to obtain permit under this section.

Archaeological Resources Protection Act

(2) In the case of any permits for the excavation or removal of any archaeological resource located on Indian lands, the permit may be granted only after obtaining the consent of the Indian or Indian tribe owning or having jurisdiction over such lands. The permit shall include such terms and conditions as may be requested by such Indian or Indian tribe.

16 U.S.C. 470cc(h),
Permits issued under
Antiquities Act of 1906

(h)(1) No permit or other permission shall be required under the Act of June 8, 1906 (16 U.S.C. 431-433), for any activity for which a permit is issued under this section.

(2) Any permit issued under the Act of June 8, 1906 [16 U.S.C. 431-433], shall remain in effect according to its terms and conditions following the enactment of this Act. No permit under this Act shall be required to carry out any activity under a permit issued under the Act of June 8, 1906, before October 31, 1979 [the date of the enactment of this Act] which remains in effect as provided in this paragraph, and nothing in this Act shall modify or affect any such permit.

16 U.S.C. 470cc(i),
Compliance with
provisions relating to
undertakings on prop-
erties listed in National
Register not required

(i) Issuance of a permit in accordance with this section and applicable regulations shall not require compliance with section 106 of the National Historic Preservation Act, as amended [16 U.S.C. 470f].

16 U.S.C. 470cc(j),
Issuance of permits
to State governors
for archaeological
activities on behalf of
States or their educa-
tional institutions

(j) Upon the written request of the Governor of any State, the Federal land manager shall issue a permit, subject to the provisions of subsections (b)(3), (b)(4), (c), (e), (f), (g), (h), and (i) of this section for the purpose of conducting archaeological research, excavation, removal, and curation, on behalf of the State or its educational institutions, to such Governor or to such designee as the Governor deems qualified to carry out the intent of this Act.

16 U.S.C. 470dd,
Custody of archaeo-
logical resources

Section 5

The Secretary of the Interior may promulgate regulations providing for—

(1) the exchange, where appropriate, between suitable universities, museums, or other scientific or educational institutions, of archaeological resources removed from public lands and Indian lands pursuant to this Act, and

Archaeological Resources Protection Act

(2) the ultimate disposition of such resources and other resources removed pursuant to the Act of June 27, 1960 [the Reservoir Salvage Act, as amended, also known as the Archeological and Historic Preservation Act of 1974 [16 U.S.C. 469-469c-1] or the Act of June 8, 1906 [the Antiquity Act of 1906, as amended, 16 U.S.C. 431-433].

Any exchange or ultimate disposition under such regulation of archaeological resources excavated or removed from Indian lands shall be subject to the consent of the Indian or Indian tribe which owns or has jurisdiction over such lands. Following promulgation of regulations under this section, notwithstanding any other provision of law, such regulations shall govern the disposition of archaeological resources removed from public lands and Indian lands pursuant to this Act.

16 U.S.C. 470ee,
Prohibited acts and
criminal penalties

16 U.S.C. 470 ee(a),
Unauthorized excavation,
removal, damage,
alteration, or defacement
of archaeological
resources

16 U.S.C. 470ee(b),
Trafficking in archaeological
resources:
Federal law

16 U.S.C. 470ee(c),
Trafficking in illegal
interstate or foreign
commerce in archaeological
resources:
State or local law

Section 6

(a) No person may excavate, remove, damage, or otherwise alter or deface or attempt to excavate, remove, damage, or otherwise alter or deface any archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued under section 4 of this Act, a permit referred to in section 4(h)(2) of this Act, or the exemption contained in section 4(g)(1) of this Act.

(b) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource if such resource was excavated or removed from public lands or Indian lands in violation of—

(1) the prohibition contained in subsection (a) of this section, or

(2) any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal law.

(c) No person may sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange, in interstate or foreign commerce, any archaeological resource excavated, removed, sold, purchased, exchanged, transported, or received in violation of any provision, rule, regulation, ordinance, or permit in effect under State or local law.

Archaeological Resources Protection Act

16 U.S.C. 470ee(d),
Penalties

(d) Any person who knowingly violates, or counsels, procures, solicits, or employs any other person to violate, any prohibition contained in subsection (a), (b), or (c) of this section shall, upon conviction, be fined not more than \$10,000 or imprisoned not more than one year, or both: *Provided, however,* That if the commercial or archaeological value of the archaeological resources involved and the cost of restoration and repair of such resources exceeds the sum of \$500, such person shall be fined not more than \$20,000 or imprisoned not more than two years, or both. In the case of a second or subsequent such violation upon conviction such person shall be fined not more than \$100,000, or imprisoned not more than five years, or both.

16 U.S.C. 470ee(e),
Effective date

(e) The prohibitions contained in this section shall take effect on October 31, 1979 [the date of the enactment of this Act].

16 U.S.C. 470ee(f),
Prospective application

(f) Nothing in subsection (b)(1) of this section shall be deemed applicable to any person with respect to any archaeological resource which was in the lawful possession of such person prior to October 31, 1979.

16 U.S.C. 470ee(g),
Removal of arrowheads located on ground surface

(g) Nothing in subsection (d) of this section shall be deemed applicable to any person with respect to the removal of arrowheads located on the surface of the ground.

16 U.S.C. 470ff,
Civil penalties

Section 7

16 U.S.C. 470ff(a),
Assessment by Federal land managers

(a)(1) Any person who violates any prohibition contained in an applicable regulation or permit issued under this Act may be assessed a civil penalty by the Federal land manager concerned. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Federal land manager concerned.

(2) The amount of such penalty shall be determined under regulations promulgated pursuant to this Act, taking into account, in addition to other factors—

Archaeological Resources Protection Act

(A) the archaeological or commercial value of the archaeological resource involved, and

(B) the cost of restoration and repair of the resource and the archaeological site involved.

Such regulations shall provide that, in the case of a second or subsequent violation by any person, the amount of such civil penalty may be double the amount which would have been assessed if such violation were the first violation by such person. The amount of any penalty assessed under this subsection for any violation shall not exceed any amount equal to double the cost of restoration and repair of resources and archaeological sites damaged and double the fair market value of resources destroyed or not recovered.

(3) No penalty shall be assessed under this section for the removal of arrowheads located on the surface of the ground.

16 U.S.C. 470ff(b),
Judicial review of
assessed penalties,
collection of unpaid
assessments

(b)(1) Any person aggrieved by an order assessing a civil penalty under subsection (a) of this section may file a petition for judicial review of such order with the United States District Court for the District of Columbia or for any other district in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued. The court shall hear such action on the record made before the Federal land manager and shall sustain his action if it is supported by substantial evidence on the record considered as a whole.

(2) If any person fails to pay an assessment of a civil penalty—

(A) after the order making the assessment has become a final order and such person has not filed a petition for judicial review of the order in accordance with paragraph (1), or

(B) after a court in an action brought under paragraph (1) has entered a final judgment upholding the assessment of a civil penalty, the Federal land managers may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide

Archaeological Resources Protection Act

any such action. In such action, the validity and amount of such penalty shall not be subject to review.

16 U.S.C. 470ff(c),
Hearings

(c) Hearings held during proceedings for the assessment of civil penalties authorized by subsection (a) of this section shall be conducted in accordance with section 554 of title 5 [of the United States Code].

Subpoenas

The Federal land manager may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths.

Witness fees

Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Federal land manager or to appear and produce documents before the Federal land manager, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

16 U.S.C. 470gg,
Enforcement

Section 8

16 U.S.C. 470gg(a),
Rewards

(a) Upon the certification of the Federal land manager concerned, the Secretary of the Treasury is directed to pay from penalties and fines collected under section 6 and 7 of this Act an amount equal to one-half of such penalty or fine, but not to exceed \$500, to any person who furnishes information which leads to the findings of a civil violation, or the conviction of criminal violation, with respect to which such penalty or fine was paid. If several persons provided such information, such amount shall be divided among such persons. No officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall be eligible for payment under this subsection.

Archaeological Resources Protection Act

16 U.S.C. 470gg(b),
Forfeitures

(b) All archaeological resources with respect to which a violation of subsection (a), (b), or (c) of section 6 of this Act occurred and which are in the possession of any person, and all vehicles and equipment of any person which were used in connection with such violation, may be (in the discretion of the court or administrative law judge, as the case may be) subject to forfeiture to the United States upon—

(1) such person's conviction of such violation under section 6 of this Act,

(2) assessment of a civil penalty against such person under section 7 of this Act with respect to such violation, or

(3) a determination by any court that such archaeological resources, vehicles, or equipment were involved in such violation.

16 U.S.C. 470gg(c),
Disposition of penalties collected and items forfeited in cases involving archaeological resources excavated or removed from Indian lands

(c) In cases in which a violation of the prohibition contained in subsection (a), (b), or (c) of section 6 of this Act involve archaeological resources excavated or removed from Indian lands, the Federal land manager or the court, as the case may be, shall provide for the payment to the Indian or Indian tribe involved of all penalties collected pursuant to section 7 of this Act and for the transfer to such Indian or Indian tribe of all items forfeited under this section.

16 U.S.C. 470hh,
Confidentiality of information concerning nature and location of archaeological resources

Section 9

(a) Information concerning the nature and location of any archaeological resource for which the excavation or removal requires a permit or other permission under this Act or under any other provision of Federal law may not be made available to the public under subchapter II of chapter 5 of title 5 [of the United States Code] or under any other provision of law unless the Federal land manager concerned determines that such disclosure would—

(1) further the purposes of this Act or the Act of June 27, 1960 [the Reservoir Salvage Act, as amended, 16 U.S.C. 469-469c-1] and

(2) not create a risk of harm to such resources or to the site at which such resources are located.

16 U.S.C. 470hh(b),
Request for disclosure by Governors

(b) Notwithstanding the provisions of subsection (a) of this section, upon the written request of the Governor of any State, which request shall state—

Archaeological Resources Protection Act

(1) the specific site or area for which information is sought,

(2) the purpose for which such information is sought,

(3) a commitment by the Governor to adequately protect the confidentiality of such information to protect the resource from commercial exploitation,

the Federal land manager concerned shall provide to the Governor information concerning the nature and location of archaeological resources within the State of the requesting Governor.

16 U.S.C. 470ii,
Rules and regulations,
intergovernmental
coordination

16 U.S.C. 470ii(a),
Promulgation,
effective date

Submittal to congressional committees

16 U.S.C. 470ii(b),
Federal lands
managers' rules

Section 10

(a) The Secretaries of the Interior, Agriculture and Defense and the Chairman of the Board of the Tennessee Valley Authority, after consultation with other Federal land managers, Indian tribes, representatives of concerned State agencies, and after public notice and hearing, shall promulgate such uniform rules and regulations as may be appropriate to carry out the purposes of this Act. Such rules and regulations may be promulgated only after consideration of the provisions of the American Indian Religious Freedom Act (92 Stat.469; 42 U.S.C. 1996 and 1996a).

Each uniform rule or regulation promulgated under this Act shall be submitted on the same calendar day to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Natural Resources of the United States House of Representatives, and no such uniform rule or regulation may take effect before the expiration of a period of ninety calendar days following the date of its submission to such Committees.

(b) Each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations under subsection (a) of this section, as may be appropriate for the carrying out of his functions and authorities under this Act.

Archaeological Resources Protection Act

16 U.S.C. 470ii(c),
Federal land
managers' public
awareness program
of archaeological
resources

16 U.S.C. 470jj,
Cooperation with
private individuals

(c) Each Federal land manager shall establish a program to increase public awareness of the significance of the archaeological resources located on public lands and Indian lands and the need to protect such resources.

Section 11

The Secretary of the Interior shall take such action as may be necessary, consistent with the purposes of this Act, to foster and improve the communication, cooperation, and exchange of information between—

(1) private individuals having collections of archaeological resources and data which were obtained before October 31, 1979 [the date of the enactment of this Act], and

(2) Federal authorities responsible for the protection of archaeological resources on the public lands and Indian lands and professional archaeologists and associations of professional archaeologists.

In carrying out this section, the Secretary shall, to the extent practicable and consistent with the provisions of this Act, make efforts to expand the archaeological data base for the archaeological resources of the United States through increased cooperation between private individuals referred to in paragraph (1) and professional archaeologists and archaeological organizations.

16 U.S.C. 470kk,
Savings provisions

16 U.S.C. 470kk(a),
Mining, mineral leasing,
reclamation, and
other multiple uses

16 U.S.C. 470kk(b),
Private collections

Section 12

(a) Nothing in this Act shall be construed to repeal, modify, or impose additional restrictions on the activities permitted under existing laws and authorities relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

(b) Nothing in this Act applies to, or requires a permit for, the collection for private purposes of any rock, coin, bullet, or mineral which is not an archaeological resource, as determined under uniform regulations promulgated under section 3(1) of this Act.

Archaeological Resources Protection Act

16 U.S.C. 470kk(c),
Lands within Act

(c) Nothing in this Act shall be construed to affect any land other than public land or Indian land or to affect the lawful recovery, collection, or sale of archaeological resources from land other than public land or Indian land.

16 U.S.C. 470ll,
Annual report to
Congress

Section 13

As part of the annual report required to be submitted to the specified committees of the Congress pursuant to section 5(c) of the Act of June 17, 1960 [the Reservoir Salvage Act, as amended, 74 Stat. 220; 16 U.S.C. 469a-3(c)], the Secretary of the Interior shall comprehensively report as a separate component on the activities carried out under the provisions of this Act, and he shall make such recommendations as he deems appropriate as to changes or improvements needed in the provisions of this Act. Such report shall include a brief summary of the actions undertaken by the Secretary under section 11 of this Act, relating to cooperation with private individuals.

16 U.S.C. 470mm,
Surveying of lands,
reporting of violations

Section 14

The Secretaries of the Interior, Agriculture, and Defense and the Chairman of the Board of the Tennessee Valley Authority shall—

- (a) develop plans for surveying lands under their control to determine the nature and extent of archaeological resources on those lands;
- (b) prepare a schedule for surveying lands that are likely to contain the most scientifically valuable archaeological resources; and
- (c) develop documents for the reporting of suspected violations of this Act and establish when and how those documents are to be completed by officers, employees, and agents of their respective agencies.